

REMARKS

FIGS. 10, 11 and 12 have been added to show the shape of the central portion of the instant invention. Formal drawings will be submitted upon allowance of the Application. Support for the added drawings can be found in the specification on page 4, lines 8-9, and page 3, lines 13-14.

The specification has been amended to correct minor typographical errors and to incorporate new FIGS. 10, 11 and 12.

Claims 4, 20 and 23 have been amended to better define the instant invention over the prior art. No new matter has been entered by any of the foregoing amendments.

The election of claims 1-6, 9-25 and 28-32 is acknowledged.

Turning to the Examiner's objection as to the drawings, FIGS. 10, 11 and 12 have been added to illustrate a rectangular and polygonal central portion, and thus it is believed the Examiner's objection has been overcome.

Turning to the rejection of claims 4-6 under 35 USC §112 as indefinite, claim 4 has been amended to specify that the end caps in the central portion are coupled using an interference fit. Thus, it is believed the Examiner's §112 rejection has been traversed.

Turning to the rejection of claims 20, 23, 28, 29, 31 and 32 under 35 USC §102 as anticipated by Cook (U.S. Patent No. 3,750,871), claim 20 has been amended to specify that a merchandising card is secured in a depression formed in a first and second end cap. Cook cannot anticipate this aspect of claim 20. Cook teaches a top and bottom portion 10, 12 that comprise recessed portions for securing an article, such as a glass (col. 1, lines 37-42; FIG. 3). The recesses are not adapted to receive a card.

Furthermore, Applicants' claimed invention allows for efficiencies in manufacture not contemplated by Cook. The purpose of Cook is to provide a shipping container for fragile articles, and as such, requires the configuration and size of the top or bottom portion to be the size and shape of both the uppermost portion and the bottommost portion of the item to be shipped (col. 2, lines 19-33; FIG. 3). Thus, Cook requires that each type of item have a distinct container. However, the instant claimed invention allows the same top and bottom portion to be used for a variety of items because the top and bottom portions are adapted to receive a merchandising card, and the items are attached to the merchandising card and not the container itself. Therefore, Cook cannot achieve or render obvious this aspect of claim 20 nor any claims dependent therefrom.

Turning to the rejection of claims 1-4, 9, 10, 12-18, 20-23, 28, 29, 31 and 32 under 35 USC §103 as obvious over Gilbert (U.S. Patent No. 2,274,196) in view of Cook, the Examiner's rejection is in error. Claim 1 requires that a merchandising card extend between and be secured in the end caps. The limitations of Cook have been discussed above. Furthermore, Gilbert also does not teach a merchandising card. Gilbert teaches a rod 14 that extends between and ties the two end portions together, i.e., in concert with screw-on knots 20. Nowhere does Gilbert contemplate a card extending from a groove portion in a top portion to groove portion in a bottom portion. Thus, no combination of Gilbert and Cook could achieve or render obvious independent claims 1 and 20, nor any claims dependent therefrom.

Turning to the rejection of claims 4-6 and 23-25 under 35 USC §103 as obvious over Cook and Gilbert in further view of Jeffs et al. (U.S. Patent No. 5,711,466), Jeffs et al., which relates to a cryogenic freezing vial, has been cited as showing a "tuber (sic)" with recesses and

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protrusions to engage the respective protrusions and recesses on an end cap, and is acknowledged as so teaching. However, the more basic deficiencies of the combination of Cook and Gilbert vis-à-vis claims 1 and 20, as above discussed, are not cured by Jeffs et al. Thus, claims 4-6 and 23-25, which depend either directly or indirectly from claims 1 or 20, are patentable for the reasons adduced above relative to claims 1 and 20, as well as for their own limitations.

Turning to the rejection of claims 11 and 19-30 under 35 USC §103 as being unpatentable over Gilbert and Cook as applied to claim 1 and further in view of Official Notice, Official Notice still fails to provide the more basic missing teachings to the Gilbert and Cook combination as above discussed relative to claims 1 and 20. Thus, claims 11 and 19-30 are patentable for their own limitations, as well as for those adduced above.

Turning to the rejection of claims 21 and 22 under 35 USC §103(a) as obvious over Cook, these claims depend directly or indirectly from claim 20, and are patentable for the reasons adduced above, as well as for their own limitations.

Turning to the rejection of claims 23-25 under 35 USC §103 as patentable over Cook in view of Gilbert in further view of Jeffs et al., these claims depend directly or indirectly from claim 20, and are patentable for the reasons adduced above, as well as for their own limitations.

Finally, turning to the rejection of claim 30 under 35 USC §103 as being obvious over Cook, Gilbert and Jeffs et al. in further view of Official Notice, claim 30 is patentable for its own limitations, as well as for the reasons adduced above.

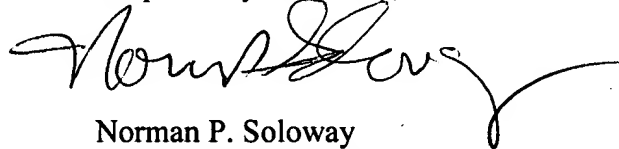
Having dealt with all the objections raised by the Examiner, the Application is believed to be in order for allowance. Early and favorable action are respectfully requested.

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Respectfully submitted,



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I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 17, 2003, at Tucson, Arizona.

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